

## **Round Two: Gritter Confidential Facts**

Gritter concedes that the contribution of solvents to the groundwater from the landfill is not distinguishable from the contribution of solvents from the ponds. However, Gritter believes that Drabbino should assume the greater share of the liabilities, because the Drabbino parcel contributed to both the solvent contamination problem and the metals in soil problem. In addition, Drabbino should be equitably responsible for Klein's share, because Klein intentionally dumped waste unlawfully, while the landfill always operated in compliance with applicable law.

However, Gritter is sensitive to the fact that the landfill accepted waste for a long time and probably contributed more contamination to the groundwater than the discharges at Drabbino. Gritter is also concerned because it failed to timely respond to the government's first two requests for information. Although the State is not aware of this, the letter had been received by the corporate president, who chose to ignore it. The Gritter Corporation has a long history of non-cooperation with government agencies. The president also informed you, the General Counsel, that the landfill records were destroyed prior to the McCabe asset purchase.

Because the regulatory agencies have not yet selected a remedy, Gritter doesn't have any estimates for any remediation costs for the groundwater or the soil. Gritter believes that Drabbino should be wholly responsible for the metals problem. As to groundwater, Gritter has a cash-flow problem and would prefer to do work rather than pay money. However, you believe that taking on the headaches of doing work should be weighted more heavily than just paying money. You would prefer that Drabbino pay the bulk of the State's past costs and pay a lump sum to you to conduct the groundwater work. You want to ensure that the payment is appropriate given the risk that the remedy could cost as much as \$40 million. The agreement may need to be flexible to account for the unknown costs of the remedy. Your original budget for this project was \$20 million. It will be very difficult for you to get the board to authorize more.

Finally, Gritter is moving forward with plans to construct a new landfill in the vicinity. It is important that Drabbino assist Gritter in an aggressive public relations campaign with the community.

In this round of negotiations, you want to clarify that Drabbino will do the metals remediation, resolve how the groundwater remediation will be funded/implemented, and gain a commitment from Drabbino to assist in a public relations campaign.